

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Dong et al.

Application No.: 10/797,346

Filed: March 10, 2004

For: Transformation methods for
Guayule Using Agrobacterium and
Reduced Light to Slow Metabolism and
Enhance Recovery

Customer No.: 25278

Confirmation No. 4296

Examiner: Wendy Haas

Technology Center/Art Unit: 1661

RENEWED PETITION UNDER 37 CFR
1.137(b)

Assistant Commissioner for Patents
Office of the Director, Technology Center 1600
Washington, D.C. 20231

Sir:

In response to the dismissal of the petition filed under 37 CFR 1.137(b) on November 30, 2009, a renewed petition under 37 CFR 1.137(b) and accompanying request for continued examination is filed herein.

Applicant submits that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. Applicant replied with a bona fide attempt to advance prosecution to the final action mailed January 11, 2008 on April 10, 2008. The final action did not contain any rejections; however, an objection to the claims was set forth. Applicant's response set forth a claim amendment to address the objection.

___ Under 37 CFR 1.135 (c), "When reply by the applicant is a *bona fide* attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.".

Applicant's reply was a bona fide attempt to advance prosecution by inclusion of the rooting step in the amendment. If the examiner were properly treating the claims as objections (per MPEP 706.01) and still deemed the amended claim language as lacking some element of form, per 37 CFR 1.135(c) cited above, the more appropriate action should have been to afford applicant a new time period for reply for the inadvertent omission.

In the decision on the petition of November 30, 2009, applicant's reply is required to submit a Notice of Appeal, RCE, or the filing of a continuing application under 37 CFR 1.53(b). Accordingly, an RCE is filed herewith.

CONCLUSION

In view of the foregoing amendments, applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Respectfully submitted,



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